

MDR Tracking Number: M5-04-3492-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 6-14-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the work hardening program for date of service 10-24-03 and for 1-7-04 through 1-9-04 was not medically necessary. Therefore, the requestor is not entitled to a reimbursement of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were not the only fees involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 8-20-03, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

Regarding CPT Code 99211 for dates of service 9-24-03, 9-30-03, 10-17-03, 10-24-03, 11-14-03 and 2-12-04: Neither party submitted EOB's for these dates of services (and did not timely respond to the request for additional information). HCFA's and Soap notes supporting delivery of service were submitted. Proof of transfer to the insurance carrier was also submitted. The carrier did not provide a valid basis for the denial of this service. Therefore, these dates of service will be reviewed in accordance with Rule 134.202. **Reimbursement is recommended in the amount of \$162.56.**

Regarding CPT Code 97750-FC for dates of service 10-13-03 and 11-6-03: Neither party submitted EOB's for these dates of services (and did not timely respond to the request for additional information). HCFA's and Soap notes supporting delivery of service were submitted. Proof of transfer to the insurance carrier was also submitted. The carrier did not provide a valid basis for the denial of this service. Therefore, these dates of service will be reviewed in accordance with Rule 134.202. **Reimbursement is recommended in the amount of \$886.56.**

Regarding CPT Codes 97545 and 97546 for dates of service 10-20-03, 10-21-03, 10-22-03, 10-23-03, 10-27-03, 10-28-03, 10-29-03, 10-31-03, 11-3-03, 11-4-03, 11-5-03, 11-7-03, 11-10-03, 11-12-03, 11-14-03, 11-17-03, 11-18-03, 11-19-03, 11-20-03, 11-21-03, 11-24-03, 11-25-03, 11-26-03, 11-28-03, 12-16-03, 12-17-03, 12-18-03, 12-19-03, 12-23-03, 12-24-03, 12-29-03, 12-30-03, 12-31-03, 1-5-04, and 1-6-04: Neither party submitted EOB's for these dates of services

(and did not timely respond to the request for additional information). HCFA's and Soap notes supporting delivery of service were submitted. Proof of transfer to the insurance carrier was also submitted. The carrier did not provide a valid basis for the denial of this service. Therefore, these dates of service will be reviewed in accordance with Rule 134.202. Reimbursement at the CARF rate is according to 134.202 (e)(5)(C)(ii) at \$64 per hour. **Reimbursement is recommended in the amount of \$16,896.00.**

Regarding CPT Code 99361 for dates of service 10-20-03, 10-27-03, 11-03-03, 11-18-03, 11-25-03, 12-02-03, 12-16-03, and 12-23-03: Neither party submitted EOB's for these dates of services (and did not timely respond to the request for additional information). HCFA's and Soap notes supporting delivery of service were submitted. Proof of transfer to the insurance carrier was also submitted. The carrier did not provide a valid basis for the denial of this service. Therefore, these dates of service will be reviewed in accordance with Rule 134.202 (c)(6) which states "for services for which CMS or the commission does not establish a relative value unit and/or a payment amount, the **carrier shall assign a relative value.**"

This Finding and Decision is hereby issued this 28th day of October 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees:

- in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c) and 134.202(c)(6);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 28th day of October 2004.

Hilda H. Baker, Manager
Medical Dispute Resolution
Medical Review Division

HB/da

09/17/2004

David Martinez
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-04-3492-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

According to the records received, the injured worker, ___, was injured in a work related incident on ___. ___ was working when she slipped on a wet floor and fell backwards. She suffered injuries to her left knee, left ankle, right forearm, low back and coccygeal region. She was initially seen at the Medical Clinic of Arlington. After a period of time and treatment she returned to work in December 2002. It is reported that the patient was doing generally well at that point but still having some mild complaints. Then in April of 2002, ___ began jogging. Late in April of 2002, she awakened with a severe increase in her low back pain. This pain was described as the same type of pain as ___ had previously experienced. ___ presented to Dr. K on 6-9-2003 for evaluation and treatment of her exacerbation of her injuries from ___. Dr. K initiated a course of care with ___. ___ also had MRI's of her lumbar spine on 10-25-2002 and 6-17-2003. The second MRI revealed a 4 mm herniation at L5-S1. The patient had an IME performed on 6-24-2003 by Dr. E. The patient has undergone diagnostic testing during her

course of treatment including FCE's and Neurodiagnostics of the lower extremities. ____ was also evaluated by Dr. S for medical evaluation and medication management. She received a psychological evaluation as a screening tool prior to the entrance or work hardening. At the completion of work hardening she was recommended to a pain management program.

Records reviewed include but are not limited to: Summary statement from Central Dallas Rehab/____, Identifying case information, Dr. K initial evaluation, Dr. K letter of necessity and response to peer review, Dr. E report, Sensory Nerve Study, Serial Range of Motion reports, Pain Management Evaluation, Berkshire Medical Services report, Treatment records from Dr. K, Work Hardening treatment notes, FCE reports, Summary statement from Broadspire and numerous other treatment notes, diagnostic tests, staffing notes, evaluations, and other documentation were reviewed for this file. Records were received from the insurance carrier and from the treating providers.

DISPUTED SERVICES

The service in dispute is work hardening dates of service 10/24/2003 and 01/07/2004 through 01/09/2004.

DECISION

The reviewer agrees with the previous adverse decision.

BASIS FOR THE DECISION

The basis for the determination is based upon the Medical Disability Advisor, 1996 Medical Fee Guidelines specific to Work Hardening, Industrial Rehabilitation-Techniques for Success, and Occupational Medicine Practice Guidelines. Specifically, a Work Hardening program should be considered as a goal oriented, highly structured, individualized treatment program. The program should be for persons who are capable of attaining specific employment upon completion of the program and not have any other medical, psychological, or other condition that would prevent the participant from successfully participating in the program. The patient should also have specifically identifiable deficits or limitations in the work environment and have specific job related tasks and goals that the work hardening program could address. Generic limitations of strength range of motion, etc. are not appropriate for work hardening.

Although the patient is required to participate in a light duty there is no specific job functions noted that the patient couldn't perform. In fact, the exacerbation is, according to the records, caused by jogging and not by any specific work activity. Although this is related to the original compensable injury and thus warrants treatment and medical management, due to the fact that there is no specific identifiable work related cause to the exacerbation, work hardening would not be considered appropriate over other treatment such as work conditioning. Work hardening is designed with specific job simulation duties in mind as opposed to work conditioning, which does not necessarily contain real job simulations. Since no specific job task is identified which

the patient cannot perform, work hardening would not be considered medically necessary. In addition it appears that the patient is pain focused and the patient has moved into a chronic pain pattern in regards to her condition as identified by a referral to a chronic pain program. ____ was also undergoing ESI's during this time period. This reviewer is not commenting on treatment using ESI's but feels that the ESI's would be a complicating factor compromising the efficacy of a successful participation in a work hardening program.

In addition there is no notation of psychological factors until the patient is specifically referred to a work hardening program. The treating doctor's records do not reveal sufficient mood or psychological deficits prior to the psychological assessment to enter into work hardening. The treating doctor's records give no indication of a need for a multidiscipline program with a psychological component.

____ also exceeds the normative data and treatment time periods for her diagnosis, see Medical Disability Advisor 4th edition. This is not to say that ____ does not need additional care or is not entitled to care, see TLC 408.021, but in this instance work hardening would not be considered medically necessary. This reviewer does understand that the patient is still entitled to medical benefits but disagrees with the necessity of specifically work hardening.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,